



NOVEMBER
2002
BALLOT PROPOSAL 02-4

An Overview

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September 2002

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On November 5, 2002, electors in Michigan will have the opportunity to vote on Proposal 02-4, which would amend Article 9, Section 36 of the Michigan Constitution by inserting language that would reallocate the State's tobacco settlement revenue. "Tobacco settlement revenue" refers to revenue received by the State as a result of the national settlement agreement reached on December 23, 1998, between 46 states and the United States tobacco industry. Currently, this revenue is dedicated to the Merit Award Trust Fund, which supports a variety of education-related initiatives including the Merit Award Scholarships, and the Tobacco Settlement Trust Fund, which supports a variety of health-related initiatives including the Elder Prescription Insurance Coverage (EPIC) program and the Life Sciences Corridor.

Proposal 02-4 will be on the ballot as a result of a petition drive. The proposal will read as follows:

PROPOSAL 02-4

A PROPOSED CONSTITUTIONAL AMENDMENT TO REALLOCATE THE "TOBACCO SETTLEMENT REVENUE" RECEIVED BY THE STATE FROM CIGARETTE MANUFACTURERS

The proposed constitutional amendment would:

- *Annually allocate on a permanent basis 90% (approximately \$297 million) of "tobacco settlement revenue" received by state from cigarette manufacturers as follows: \$151.8 million to nonprofit hospitals, licensed nursing homes, licensed hospices, nurse practitioners, school-linked health centers and Healthy Michigan Foundation; \$102.3 million to fund programs to reduce tobacco use, Health and Aging Research Development Initiative, Tobacco-Free Futures Fund, Council of Michigan Foundations and Nurses Scholarship Program; and \$42.9 million to the Elder Prescription Drug Program.*
- *Guarantee recipients funding at 2001 appropriation levels plus additional state funds on an escalating basis for nonprofit hospitals, licensed nursing homes, licensed hospices and nurse practitioners.*

Should this proposal be adopted?

This constitutional amendment will be adopted if a majority of the electors approve Proposal 02-4.

Tobacco Settlement Revenue Allocation

Currently, Article 9, Section 36 of the Michigan Constitution pertains to the expenditure of tobacco tax revenues. Proposal 02-4 would amend this section by adding detailed language governing the expenditure of tobacco settlement revenue.

As stated above, the tobacco settlement revenue is currently dedicated to a variety of education- and health-related programs. If the ballot proposal is adopted, tobacco settlement revenue no longer will be available now or in the future for the Merit Scholarship and most other broad-reaching educational purposes. Instead, three new funds will be created in the Department of Treasury and the tobacco settlement revenue will be allocated to the funds as follows: Tobacco Illness Care Fund, 46%; Tobacco Research and Education Fund, 31%; and Senior Citizen Prescription Drug Assistance Fund, 13%. The ballot proposal states that these funds "...shall be dedicated to improving the quality of health of the residents of this state". The remaining 10% of the revenue will be transferred to the General Fund and available for appropriation by the Legislature without restriction.

Proposal 02-4 goes on to mandate how the money in each of three new funds is allocated. From the Tobacco Illness Care Fund, nonprofit hospitals will receive 60.8%; nursing homes, 28.3%; hospices, 4.3%; nurse practitioners, 2.2%; school health centers, 2.2%; and the Healthy Michigan Foundation, 2.2%. The only specific requirement on the use of these funds for hospitals and nursing homes is improving the quality of health or patient care for Michigan residents. School health centers that receive money from this fund must provide primary care, screening, assessment, health promotion and referral services to children and teenagers. For hospices and nurse practitioners, the distribution is linked to the amount of care provided to Medicaid recipients. There are no additional restrictions on receipt or use of the money for the Healthy Michigan Foundation.

The ballot proposal allocates the Tobacco Settlement and Research funds to: the Tobacco-Free Futures Fund, 48.4%; Health and Aging Research and Development Initiative (Life Science Corridor), 41.9%; Council of Michigan Foundations, 6.5%; and Michigan Nurses Scholarship Program, 3.2%. The Tobacco-Free Futures Fund is restricted to using this money to develop and implement a plan to prevent and reduce tobacco use and its adverse health effects. Fifteen percent of the Life Sciences Corridor funds are to be use for tobacco-related research, while the money for the Council of Michigan Foundations is intended to support local efforts to address the needs of youths and seniors. Finally, the nursing scholarship funds are to be used for resident students in nursing programs that are operated pursuant to the Public Health Code.

Of the revenue allocated to the Senior Citizen Prescription Drug Assistance Fund, 100% is intended as operational funds for the EPIC program, established in Public Act 499 of 2000.

As mentioned above, 10% of the total tobacco settlement revenue funds will be transferred to the General Fund and available for appropriation by the Legislature, if the proposal is approved.

Implications

If the voters approve Proposal 02-4, it will place the State in a fiscal dilemma. While the proposal will fund some of the programs that are currently funded, EPIC, Life Sciences Corridor, Council of Michigan Foundations and the Nurses Scholarship program, the majority of the programs, e.g., Merit Award, Tuition Incentive Grants, and respite care, will not be funded. If the State wishes to continue these programs, either it will have to raise new revenue to generate the \$168 million needed to restore their funding fully, or the State will have to cut other programs. Furthermore, \$130 million of tobacco revenue has been used to balance the fiscal year (FY) 2002-03 budget. The State has no choice in this matter, as a balanced budget is a constitutional requirement. Even if the Legislature were to apply the 10% in discretionary funds to the deficit, the State still could be required to find additional revenue to fill the hole in the FY 2002-03 budget. The amount needed could be anywhere between \$30 million and \$100 million, depending on the amount of unspent funds (from prior years) carried forward into FY 2002-03.

Adding to this, there are various issues related to the actual ballot petition, such as what the tobacco settlement funds are to be used for and restrictions on the State's ability to reduce funding for programs receiving money under the proposal. In one case, Proposal 02-4 allocates around \$3.3 million from the Tobacco Illness Care Fund to the Healthy Michigan Foundation. At this point, however, it is unclear what this foundation will do, or even who actually controls that entity: the Michigan Health and Hospital Association (a proponent of the proposal) or a group of individuals who have been associated with opponents of the proposal. Another concern involves the interpretation of the formula below which programs receiving funds under the proposal cannot be cut. Because one of the terms in the formula is not defined in the proposal, or in the Constitution, a reasonable proxy for that term could increase State spending by another \$60 million.

In the final analysis, no one will really know the full fiscal or programmatic impact of Proposal 02-4 for some time down the road. How long that will be is probably based on the time it takes to pass enabling legislation and/or how many of these issues will require litigation for clarity and resolution.